

ABA White Collar Conference
E. Lawrence Barcella Jr. Memorial Address
Prepared Remarks of U.S. Attorney Preet Bharara – Regarding Bob Morvillo
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Miami, Florida

...Now, let me change gears fairly dramatically and get to the second subject I wanted to talk about with you this afternoon.

I think the law is a special profession, and I know all of you do too. And what I think makes the law special, ultimately, is the population of people who practice it. It is the flesh and blood practitioners of the law who give it meaning and, literally, give it life.

Especially in this bar, the criminal bar, it is a population full of individuals who believe more deeply in liberty and justice and fair play than most people you ever meet in life. I often say that there is no one better situated to promote equality, preserve liberty, and prevent cruelty than the person who has genuinely dedicated himself to becoming both a master and a servant of the law. I also say that, in the end, giving yourself to the law is an act of almost spectacular idealism, for it bespeaks an abiding faith in the possibility of self-governance, rationality, and the peaceful resolution of disputes.

But from time to time, I think, it is useful to recall the highest ideals of law practice not merely by reference to abstract principles, but by remembering the life of someone who personified those ideals. So I want to spend a few minutes talking about one such person – one of the most esteemed lawyers ever to have been a member of the white collar bar.

That person is Robert Morvillo, who passed recently – too soon and too young. Most if not all of you knew Bob. He had many famous clients, including Martha Stewart and so many others. He was a former criminal division chief in the Southern District of New York, and until the day he died, appeared to think he was still. And he started a phenomenally successful law practice that bore, and still bears, his name. He was both tenacious and tough, and his legal talents were prodigious.

Now, in recent years, you didn't have to face off against just one Morvillo – but all four of his sons too. They would come at you and come at you, sometimes all at once. Five of them! That's not a law practice; that's a basketball team. Dealing with them you sometimes felt like Neo in the Matrix – everywhere you look, there's a Morvillo coming at you. You get home, and you think you're safe. But then another Morvillo jumps out of your closet, coming at you some more. As then-chief of the criminal division in our office, Rich Zabel, once remarked with not inconsiderable exasperation, "Just how many Morvillos are there?!"

Well, today there is one fewer Morvillo lawyer, and the world is so much poorer for it.

I attended Bob's funeral out on Long Island, as I know many of you did. It reminded me a bit of the opening scene in the affecting biography of Edward Bennett Williams, A Man to See, which

described that legal titan's funeral so many years ago in a Washington Cathedral. There was a similar feeling of great grief and loss as well as a similar crowd of notable mourners. The overflowing service was a great testament to the impact Bob had and a reflection of the many lives he touched. People don't go to the funerals of lawyers; they go to the funerals of human beings.

My own experiences with Bob were somewhat limited. I went to see a very small group of eminent lawyers even before I was confirmed as U.S. Attorney to get their advice and counsel. Bob was one of the people I called upon. It was, I can tell you, a bit like going to see Obi Wan. Anyway, he barked at me a bit. But he also gave me two terrific and common-sense pieces of advice.

First, he told me that every starting AUSA should be assigned a mentor. That, he said, is what he did when he was chief of the criminal division, and it spoke volumes about his devotion to the nurturing and education of young lawyers that this was his first piece of advice to the next U.S. Attorney in Manhattan. And so after I took office, I reinstituted that practice, which had fallen by the wayside for some years. That was because of Bob.

Second, he told me that in sensitive and difficult matters, the U.S. Attorney should not be afraid to consult widely within the Office. He suggested that I should remember to consult outside of the defined chain of command to get the best advice and the most varied perspectives possible on difficult charging decisions and other matters. Sometimes, he said, people with some distance from a perplexing problem will have the perfect and dispositive insight. This, too, was great advice, and I have taken it to heart.

I also dealt with Bob, from time to time, after I became the U.S. Attorney. He would be upset about a delay in some decision and he'd call and say, "Listen, I don't mean to complain." And then he would follow that up with a 20-minute tirade. It never really got you mad, because it was always fairly entertaining.

I was also once on the receiving end of a vintage and full-blown Bob Morvillo legal presentation. He was representing a client whom he thought we should not charge. Unsurprisingly, it was the most thorough and thoughtful presentation I had ever received from any defense lawyer in my time as U.S. Attorney.

You see, Bob Morvillo was a lawyer of robust personality and preparation. And that, I can tell you with some sadness, has become an increasingly rare combination at a time when so many people think that one can compensate for a lack of the other.

But there was more to Bob Morvillo, and that is what is especially worth recalling here today. Because Bob will no doubt be remembered less for the particular cases he tried and defended than the way he went about being a lawyer and a father and a husband and a person.

And there is a lesson in that for every lawyer.

In Bob Morvillo's legal world, prosecutors and defense attorneys could still be friends after a painful and hard-fought trial, no matter who won or who lost. And, in Bob's legal world, if prosecutor and defense lawyer had been strangers at the start, they might still become friends over the course of a tough case, again no matter who won or lost – because merely being on the opposite side of a case does not preclude mutual respect for an adversary's excellence and decency. In his world, lawyers love their practice so much that they might wish a life in the law upon their own children. In his world, lawyers take such open relish and joy and pride in their practice, that their own children might voluntarily choose that life for themselves. As I see it, that is a pretty good world.

Now, I don't mean to single out Bob Morvillo for canonization. There are such special souls present here and throughout the defense bar. And there are such people throughout the Government as well. But one can't help but feel that there are fewer than there used to be; and fewer than there should be.

At the end of the day, members of the defense bar are by definition the professional adversaries of public prosecutors – your job is to zealously represent your clients, hold us to our proof, and keep our feet to the fire. But, I think, it is an even larger responsibility than that.

Because of his stature and profile at the bar, Bob Morvillo, whether he knew it or not, was a role model. And he was a role model not only for the sons he raised and the associates he trained and the colleagues he mentored, but also for the prosecutors he beat and the prosecutors who beat him.

Because every great lawyer – whether acting on behalf of one person or on behalf of the United States of America – is necessarily a role model and example for every other lawyer who aspires to be great and not merely good. And so are you all – prosecutors and defense counsel alike – natural role models not just for your peers and subordinates on your side of the fence, but also for the lawyers you clash with in court and for every young lawyer who watches you in court. All of us, I think, have a responsibility to practice our profession not only with legal precision, but also with humanity and decency.

The law may be an ass, as Dickens wrote, but lawyers don't have to be.

As I am sure you would agree, it demeans not only the legal profession but also a prosecutor's own humanity – if he ever lets himself forget that every defendant is a human being entitled not just to due process but to dignity. But it also demeans both the legal profession and a defense lawyer's own credibility if he ever lets himself forget that – case-created pressures and passions notwithstanding – prosecutors are human beings too, with reputations and feelings and aspirations.

I understand that our roles are different; that in the criminal justice system, prosecutors bear the heavier responsibility, and that is as it should be. But while prosecutors may bear the burden of proof at trial, we all bear the burden of raising up our much-maligned profession, of setting the highest possible ethical example.

In an important sense, we are all ultimately on the same side – as supporters of the rule of law; disciples of a culture of reason, proponents of principled argument; and believers in fairness. At the end of the day, it will take prosecutors and defense lawyers both to raise up the reputation of a profession that is so commonly and casually derided. It will take prosecutors and defense lawyers both to restore and renew public faith in the fairness of our criminal justice system. And it will take both groups, each aspiring to the highest ideals of the law, to restore some of the rapidly vanishing luster – and even nobility – of our much-maligned profession. At the end of the day, it is important how we act not just as lawyers but as people, as human beings.

Perfect laws, after all, are no match for imperfect people.

I was reminded of that point very recently. Over the President's Day weekend, I took my family to the Constitution Center in Philadelphia. That's the kind of fun vacation we have in my household – I skipped the Federal Bar Council conference in Hawaii, but marched everyone to downtown Philadelphia in winter.

Anyway, there was a quote by Learned Hand in big block letters on one of the Constitution exhibits. And it was not intuitive that this would be a prominently displayed quote in a place that was all about exalting the wondrousness of our Constitution. It's a passage from a speech Learned Hand gave in New York in 1944, and it is this:

“I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, upon courts. These are false hopes, believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court, can save it.”

I hope we all remember that.

Thank you.